

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 148 - SB 287

February 24, 2017

SUMMARY OF BILL: Creates a new offense of child abuse for an adult to intentionally command, induce, compel, or otherwise cause a minor to commit a criminal gang offense. A first offense is a class A misdemeanor; a second or subsequent offense is a class E felony.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – \$137,100/Incarceration*

Increase Local Expenditures – \$18,000/Incarceration**

Assumptions:

- Child abuse is a class A misdemeanor offense unless committed against a child eight years of age or less, in which case it is punished as a class D felony if the abuse inflicts injury or as a class E felony if the abuse adversely affects the child's health and welfare.
- The proposed legislation would punish as child abuse an adult intentionally causing a minor to commit a criminal gang offense, as defined in Tenn. Code Ann. § 40-35-121.
- Tennessee Code Annotated § 40-35-121(a)(3) defines criminal gang offense as the commission or attempted commission, facilitation of, solicitation of, or conspiracy to commit any of 27 listed offenses after July 1, 2013. The list of offenses includes aggravated assault, robbery, riot, inciting a riot, and carjacking.
- Statistics from the Administrative Office of the Courts show an average of 58 convictions for class A misdemeanor child abuse each year. These statistics represent convictions at the state court level. It is assumed that only 10 percent of misdemeanor convictions are at the state court level. It is assumed that there are a total of 580 convictions (58 x 10) per year for child abuse.
- Given the extensive list of offenses that constitute a criminal gang offense and the large number of current child abuse cases, it is assumed that the proposed legislation will result in a five percent increase (29 convictions) in class A misdemeanor child abuse convictions. Persons convicted of misdemeanor offenses rarely serve jail time unless the person has a previous criminal history.
- It is assumed that 10 of the 29 convictions will result in jail time of 30 days for each conviction. The estimated 2017 cost per inmate per day for local jails is \$60.00.
- The proposed legislation will result in a recurring increase in local incarceration costs of \$18,000 (10 convictions x 30 days x \$60 per day).

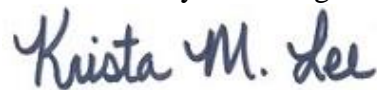
- It is assumed that 10 percent of the 29 convictions (3 convictions) will be second or subsequent offenses, punished as a class E felony.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will not affect the fiscal impact of this legislation.
- According to the Department of Correction (DOC), the average operating cost per offender per day for calendar year 2017 is \$68.75.
- The average time served for class E felony child abuse is 1.82 years.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on each offender serving 1.82 years (664.76 days) at a cost of \$45,702 (\$68.75 x 664.76 days). The total cost for three offenders is \$137,106 (\$45,702 x 3).
- The proposed legislation only creates 29 cases per year, which is less than one per judicial district. It is assumed that the courts, public defenders, and district attorneys can accommodate the impact to their caseloads within existing resources.

*Tennessee Code Annotated, Section 9-4-210, requires that: *For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

**Article II, Section 24 of the Tennessee Constitution provides that: *no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

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